

BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO

STATE OF IDAHO, DEPARTMENT OF)	Docket No. 2005-7-29
FINANCE, SECURITIES BUREAU,)	
)	AGREEMENT AND ORDER
Complainant,)	
)	
vs.)	
)	
RICHARD C. NIECE, PHILLIP GARDNER))	
and SEASCAPE MANAGEMENT CO.,)	
LLC, and WELLS FARGO SECURITIES,)	
LLC,)	
)	
Respondents.)	

The director of the Department of Finance has investigated the conduct of Richard C. Niece (Niece or Respondent) in the securities business. Pursuant to said investigation, it appears to the Director that violations of the Idaho Securities Act ("Act"), Idaho Code § 30-1401 *et seq.*, have occurred. The Director and Respondent have agreed to resolve this matter without a public hearing. Therefore, the Director deems it appropriate and in the public interest that this Agreement be entered. Respondent consents to the entry of an Order consistent with this Agreement.

BACKGROUND

1. Niece has been registered as a securities representative with the Idaho Department of Finance ("Department") since November 1981. Niece was a registered representative for Piper Jaffray, Inc. from November of 1981 until June of 1995; thereafter he was with Merrill, Lynch from June of 1995 to March of 1996; Niece was with First Security and its successor entities from May of 1996 until September of 2001. Beginning December of 2001 continuing until the present Niece is a registered representative with NEXT Financial Group, Inc.

2. On or about June 8, 2000 Niece was introduced to Philip Gardner, Managing Director of Seascope Management Co. by Gardner's son, Dr. Bradley Gardner. Niece did purchase some InfoSpi.com stock and later received an additional 5,000 shares "in appreciation for your referrals" from Mr. Gardner/Seascope Management Co.

3. The only disciplinary history reported by the Central Registration Depository ("CRD") maintained by the National Association of Securities Dealer ("NASD") is a termination based upon unauthorized trading from Merrill Lynch in 1996. The rest of the complaints listed in CRD are a result of Niece's InfoSpi.com. activities.

DEPARTMENT ALLEGATIONS

COUNT ONE

4. Between the years 1996 until September 14, 2001 Niece was employed by First Security Investor Services, Inc. and a successor entity, Wells Fargo Van Kasper LLC.

5. Between 2000 until sometime before September 14, 2001, Niece conducted business activity outside the scope of Niece's regular employment without written notice being provided to his employer firm.

6. Niece has violated Rule 80, IDAPA 12.01.08.080, by "selling away" without notice to his employer.

7. Idaho Code § 30-1413(2) provides for the suspension or revocation of Niece's registration or the imposition of an administrative penalty not to exceed ten thousand dollars (\$10,000) for such violation.

COUNT TWO

8. Between 2000 and sometime before September 14, 2001, Niece facilitated numerous investors' purchases of InfoSpi.com stock.

9. InfoSpi.com was not registered as a security in Idaho and no claim of exemption from Idaho registration has been made.

10. Niece failed to inform the InfoSpi.com investors that they were purchasing an unregistered security.

11. Niece violated Idaho Code § 30-1403(2) by omitting to state a material fact necessary to in order to make the statements made not misleading.

12. Idaho Code § 30-1413(2) provides for the suspension or the revocation of Nieces' registration or the imposition of an administrative penalty not to exceed ten thousand dollars (\$10,000) for such violation.

COUNT THREE

13. Niece made statements to the InfoSpi.com investors that InfoSpi.com would "go public" imminently; their investment return would range from at least 3 to possibly ten times their investment, and for at least one investor that his stock was guaranteed against loss.

14. Niece violated Rule 117(13) by falsely leading a customer to believe that he was in a possession of material, non-public information which would impact on the value of the security as well as Rule 117(10), guaranteeing a customer against loss. These violations are deemed to be deceptive or manipulative pursuant to rule 110. These Rules are codified in IDAPA 12.01.08.117.13, 12.01.08.117.10 and 12.01.08.110.

15. Niece also violated Idaho Code § 30-1403(2) by making an untrue statement of material fact.

16. Idaho Code § 30-1413(2) provides for the suspension or revocation of Nieces' registration or the imposition of an administrative penalty not to exceed ten thousand dollars (\$10,000) for such a violation.

NIECE RESPONSE

17. Respondent Niece neither admits nor denies the Department allegations contained in this Agreement and Order. This Agreement and Order shall not be considered an admission by Niece in any litigation. This Agreement and Order represents a compromise settlement of a dispute to avoid litigation.

AGREED REMEDIES

18. Respondent Niece agrees to a thirty (30) day suspension of his representative registration in Idaho. The thirty-day suspension will be served from October 31, 2005 through November 29, 2005.

19. Respondent Niece agrees to operate under a Heightened Supervision Agreement (HSA), a copy of which is attached, for one year.

20. Respondent Niece agrees that he will achieve a passing score on the Series 63 securities examination. Respondent Niece agrees to operate under the Heightened Supervision Agreement until he achieves a passing score on the Series 63 securities examination.

21. Respondent Niece agrees to pay the sum of \$40,600.00 in Restitution as follows:

1. Dr. John Fornarotto and Kathleen Fornarotto - \$10,000
2. Steve Vigliaturo and Vicki Vigliaturo - \$10,000
3. Nick Vigliaturo - \$1,000

4. Steve Coker - \$3,000
5. John Hapke - \$4,500
6. Rex McArthur - \$4,500
7. M. R. Mickelson - \$3,100
8. Joe Reams - \$3,000
9. Bill Vickers - \$1,500

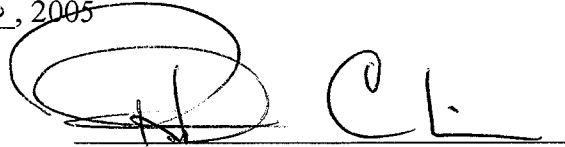
22. Respondent Niece agrees to pay the Department an Administrative penalty of \$1,000.00 to be paid after restitution has been paid in full.

23. Respondent Niece agrees to comply with the provisions of the Idaho Uniform Securities Act ("USA") and rules promulgated under the USA in all future securities transactions. Respondent Niece agrees that, should the Director find in the future that Respondent Niece has committed any additional violations of Idaho securities laws, the Department may use all allegations contained in this Agreement and Order, and any other allegations concerning violations of the securities laws by Respondent Niece, in any subsequent proceeding.

24. In consideration for Niece's agreements contained in Paragraphs 18, 19, 20, 21, 22 and 23 the State of Idaho Department of Finance Securities Bureau will take no further enforcement action and will seek no further penalties or restitution from Niece by reason of any statements, conduct or violation of law related to the trading, selling, offering or facilitating any transactions of InfoSpi.com stock. This agreement shall be construed as if it were a dismissal with prejudice of pending litigation precluding the State of Idaho Department of Finance Securities Bureau from filing any litigation against Niece that could have been brought as of the date of this litigation concerning Niece's involvement with InfoSpi.com stock. This Agreement and Order is a public record. However, no press release shall be issued concerning it.

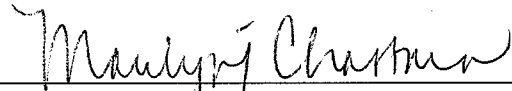
25. If Respondent Niece fails to timely meet all terms and conditions set forth in this Agreement and Order, this Agreement and Order shall be null and void, and the Department may seek all remedies allowed by law.

DATED this 21 day of October, 2005



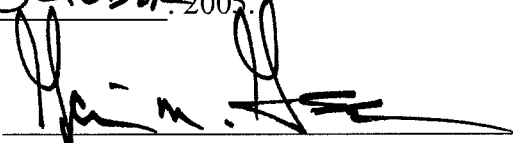
RICHARD C. NIECE

DATED this 25th day of October, 2005



MARILYN T. CHASTAIN
Bureau Chief, Securities Bureau
Department of Finance, State of Idaho

IT IS SO ORDERED this 27th day of OCTOBER, 2005.



GAVIN M. GEE
Director
Department of Finance, State of Idaho

